

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 49974-035

Applicant(s): Michael Tesar et al.

Confirmation No.: 8662

Appl. No.: 10/588,568

Examiner: Unassigned

Filing Date: August 4, 2006

Art Unit: Unassigned

Title: ANTI-CD38 HUMAN ANTIBODIES AND USES THEREOF

**Declaration of Bernd Hutter in Support of Petition for Revival
of Unintentionally Abandoned Application**

1. I have been employed at MorphoSys AG ("MorphoSys") as a European Patent Attorney since June 2007, and I currently hold the position of Assistant Director and Team Lead IP. My duties at MorphoSys include managing worldwide prosecution of patent applications owned by MorphoSys, including the captioned application.
2. The captioned application is a national phase application of PCT application PCT/IB2005/002476, which is assigned to MorphoSys.
3. MorphoSys is pursuing national phase applications based on application PCT/IB2005/002476 in other countries and regions, including Australia, Brazil, Canada, China, Europe, Hong Kong, India, Israel, Japan, Korea, Mexico, Norway, New Zealand, Russia, Singapore, and South Africa. Examination on the merits already is proceeding in several jurisdictions, and patents have been granted in New Zealand and South Africa. MorphoSys has always intended to pursue the captioned national phase application in the United States, and has never intended to abandon the captioned application. The entire delay in filing the response to the Notice of Missing Requirements mailed February 27, 2007, was unintentional.

4. I declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Date: October 14, 2009

/Bernd Hutter/
Bernd Hutter